



Rec'd PCT/PTO 28 JUL 2004 #4

NX 5660 (BXTR 24000)  
PATENT

09/646479

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Verma et al.  
Serial No. 09/646,479  
Filed September 15, 2000  
Confirmation No. 1456  
For PORCINE NUCLEAR TRANSFER

Art Unit Unknown

July 28, 2004

**PETITION UNDER 37 C.F.R. 1.137(b) FOR REVIVAL  
OF AN UNINTENTIONALLY ABANDONED APPLICATION**

Attention: Office of Petitions  
MAIL STOP PETITION  
COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, VA 22313-1450

RECEIVED

28 JUL 2004

SIR:

Legal Staff  
International Division

The above-identified application became abandoned for failure to file a timely and proper reply to the Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office dated October 2, 2000. Applicant hereby petitions for revival of this application.

Pursuant to 37 C.F.R. § 1.137(b), this petition is accompanied by:

- (1) the reply (Declaration of the Inventors) required to the outstanding Notification of Missing Requirements;
- (2) petition fee of \$1,330.00 as set forth in 37 C.F.R. § 1.17(m);
- (3) response fee of \$130.00 to Notification of Missing Requirements;
- (4) extension fee of \$2,010.00 for response to Notification of Missing Requirements; and
- (5) Declaration of Diane Branham in support of the statement set forth below that the entire delay was unintentional.

Since this utility application was filed on or after June 8, 1995, no terminal disclaimer is required.

STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of this petition under 37 C.F.R. § 1.137(b) was unintentional.

08/02/2004 GENEY1 00000037 09646479

08 JUL 2004

082000 00

Please contact the undersigned if there are any questions concerning this application.

The Commissioner is hereby authorized to charge any underpayment or credit any overpayment to Deposit Account No. 19-1345.

Respectfully submitted,



Kathleen M. Petrillo, Reg. No. 35,076  
SENNIGER POWERS  
One Metropolitan Square, 16th Floor  
St. Louis, Missouri 63102  
(314) 231-5400

KMP/lam

Express Mail Label No. EV 416450710 US  
MAIL STOP PETITION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Verma et al.  
Serial No. 09/646,479  
Filed September 15, 2000  
Confirmation No. 1456  
For PORCINE NUCLEAR TRANSFER  
Examiner Unknown

Art Unit Unknown

July 23, 2004

**DECLARATION OF DIANE BRANHAM IN SUPPORT OF A  
PETITION TO REVIVE APPLICATION PURSUANT TO 37 C.F.R. § 1.137(b)**

I, Diane Branham, declare and state as follows:

1. I am currently employed as a Patent Paralegal for Baxter Healthcare Corporation, and was so employed at all times described in this declaration.
2. This Declaration is provided in support of a Petition to revive the above-referenced patent application (hereinafter "the Application") pursuant to 37 C.F.R. 1.137(b).
3. On September 15, 2000, the Application was filed as the US national stage application of International Application No. PCT/AU99/00165.
4. A NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE was mailed on October 2, 2000. When I received the notification on October 9, 2000, I stamped it with a docket stamp and recorded a due date of April 2, 2001 on the notification (see Exhibit A). I then inadvertently set aside the notification without docketing it into the electronic docketing system and without review by the patent agent prosecuting the Application. Therefore, the supervising patent agent was not aware that I had received the notification.
5. On March 19, 2001, the notification resurfaced in my filing. When I reviewed the April due date, I believed that I had calculated it incorrectly and that the final due date was March 2, 2001. At that time I entered it into the electronic docketing system with a March 2, 2001 final due date (see Exhibit B). Since the docketed final due date had passed, the notification did not appear on any later electronic docket reports.
6. On December 19, 2001, a NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (F) OR (G) was mailed by the PTO. I received the notice on January 3, 2002. I set the notice aside with the intent of preparing the Petition to revive for the prosecuting patent agent to review. I mistakenly misplaced the notice in my office without preparing the Petition. Therefore, the prosecuting patent agent was not aware of receipt of the notice or abandonment of the Application.

7. Baxter Healthcare Corporation has a regular and established docketing department and computerized docket system for recording and tracking due dates relating to issued patents and pending applications. Since there is no fixed date by which a petition to revive an abandoned patent application must be filed, however, I did not docket a due date concerning the Application.

8. In April 2003, Baxter entered an agreement to donate several patent applications including the Application to the Mayo Foundation. At that time, I reviewed our file, discovered that the Application had become abandoned and had not been revived, and again intended to prepare the Petition to revive. I informed the Mayo Foundation that I would revive the Application. However, I did not docket a due date for reviving the Application and inadvertently put the Application back into storage.

9. In June 2004, I received an inquiry from the Australian associate handling a related patent application regarding the status of the U.S. prosecution. When I pulled the Application from storage, I realized that I had failed to prepare the Petition to revive. I then informed the prosecuting patent agent of my mistakes. On June 18, 2004, the file was transferred to the Senniger firm for preparation of the Petition to revive. I have cooperated with that firm regarding preparation of the Petition.

10. It is my belief that at all times the Application was handled by Baxter Healthcare Corporation and the Senniger firm, Baxter Healthcare Corporation did not intend for the Application to be abandoned.

11. The entire delay in filing the required reply from the due date for the reply until the filing of the Petition was unintentional.

12. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and believe are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: July 23, 2004

Diane Branham

Diane Branham



U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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09/646479

VERMA

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NX-5660

JANICE GUTHRIE  
BAXTER HEALTHCARE CORPORATION  
P O BOX 15210  
IRVINE, CA 92623 5210

INTERNATIONAL APPLICATION NO.

PCT/AU99/00165

LA. FILING DATE

PRIORITY DATE

16 MAR 99

16 MAR 98

DATE MAILED

02 OCT 2000

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as

- ☐ a Designated Office (37 CFR 1.494),  
☒ an Elected Office (37 CFR 1.495):

☒ U.S. Basic National Fee.

☒ Copy of the international application in:

- ☐ a non-English language.  
☒ English.

☐ Translation of the international application into English.

☐ Oath or Declaration of inventors(s) for DO/EO/US.

☐ Copy of Article 19 amendments.

☐ Translation of Article 19 amendments into English.

☒ The International Preliminary Examination Report in English and its Annexes, if any.

☐ Translation of Annexes to the International Preliminary Examination Report into English.

☐ Preliminary amendment(s) filed \_\_\_\_\_ and \_\_\_\_\_

☐ Information Disclosure Statement(s) filed \_\_\_\_\_ and \_\_\_\_\_

☐ Assignment document.

☐ Power of Attorney and/or Change of Address.

☐ Substitute specification filed \_\_\_\_\_

☐ Verified Statement Claiming Small Entity Status.

☒ Priority Document.

☒ Copy of the International Search Report ☐ and copies of the references cited therein.

☐ Other:

2. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.

☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.

☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).

☒ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.

☐ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of \$ \_\_\_\_\_ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due. See attached PTO-875.

**ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

4. Translation of the Annexes **MUST** be submitted no later than the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.

5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

**A copy of this notice *MUST* be returned with this response.**

Enclosed:

☐ PCT/DO/EO/917

☐ Notice of Defective Translation

☐ PTO-875

FORM PCT/DO/EO/905 (December 1997)

Winston M Alvarado

Telephone: 703-305-6421

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**Actions Due**

Wednesday, July 07, 2004

Page: 1

Case Number: 5660

SubCase:

Resp.Office: CA

Country: US

United States of America

Case Type: PCT

Status: Pending

Action Type: US-1MON MISSING PRTS

Base Date: 02-Oct-2000

Response sent date:

Action(s) Due	Due Date	Indicator	Taken
<b>RESPONSE DUE</b>			
1MON EXTENSION	02-Dec-2000	Due Date	02-Dec-2000
2MON EXTENSION	02-Jan-2001	Due Date	02-Jan-2001
3MON EXTENSION	02-Feb-2001	Due Date	02-Feb-2001
4MON EXTENSION	02-Mar-2001	Final	
<b>DEADLINE</b>	02-Mar-2001	Final	

Remarks:

User ID: sa

Date Created: 19-Mar-2001

Last Update: 26-Sep-2002